

***THE HON'BLE MR JUSTICE L. NARASIMHA REDDY***

**Writ Petition No.16823 of 2006**

**Dated 21-02-2007**

Between:

Vijaya Cooperative Urban Bank

...Petitioner

And

Smt.T.Vijayalaxmi and others

...Respondents

***THE HON'BLE MR JUSTICE L. NARASIMHA REDDY***

**Writ Petition No.16823 of 2006**

**ORDER:**

The petitioner is a Co-operative Urban Bank Limited (Women),  
at Hyderabad. The 1<sup>st</sup> respondent was elected as its Chairman, for a

term of five years, from 1998 onwards. An enquiry under Section 51 of the A.P. Co-operative Societies Act (for short '*the Act*') was ordered by the Registrar of Co-operative Societies, through his proceedings dated 29-08-2002. The 3<sup>rd</sup> respondent was appointed as an Enquiry Officer. He submitted a report, pointing out certain irregularities. On the basis of the same, the 2<sup>nd</sup> respondent initiated proceedings under Section 60 of the Act. Ultimately, a surcharge order was passed on 07-06-2004, holding that the 1<sup>st</sup> respondent is liable to pay a sum of Rs.5,83,06,592/- with interest at 18% per annum.

The 1<sup>st</sup> respondent filed C.T.A.No.121 of 2004 before the A.P. Co-operative Tribunal at Hyderabad. Through an order dated 26-04-2004, the Tribunal allowed the appeal and remanded the matter to the 2<sup>nd</sup> respondent for fresh consideration and disposal. The same is challenged in this writ petition.

Sri D.Govardhana Chary, learned counsel for the petitioner submits that the grounds on which the Tribunal remanded the matter to the 2<sup>nd</sup> respondent are untenable, and are contrary to record. He contends that the 2<sup>nd</sup> respondent passed a detailed order, taking into account the report submitted by the 3<sup>rd</sup> respondent under Section 51 of the Act and that the Tribunal had set aside the surcharge order on the basis of certain surmises.

Learned Government Pleader for Cooperation, on the other hand, submits that the Tribunal noticed certain factual defects in the order passed by the 2<sup>nd</sup> respondent, and that no exception can be taken to the order in challenge. He contends that a liquidator cannot represent the society, much less file a writ petition.

Sri R. Raghunandan, learned counsel for the 1<sup>st</sup> respondent raises an objection, as to the maintainability of the writ petition, at the

instance of the liquidator. He contends that the Tribunal had pointed out several material defects in the order passed by the 2<sup>nd</sup> respondent, and that the impugned order does not warrant any interference.

The petitioner-society is under liquidation. The Registrar of Co-operative Societies had appointed a Liquidator. The Liquidator acts as an agent of the Registrar and he cannot take any independent decision. Learned counsel for the petitioner is not able to place any permission or authorization accorded by the Registrar to the Liquidator to file this writ petition. Therefore, a serious doubt persists, as to the very maintainability of the writ petition.

Be that as it may, the petitioner cannot be said to have suffered any prejudice, on account of the order passed by the Tribunal. In its order in C.T.A.No.121 of 2004, the Tribunal pointed out several defects in the order passed by the 2<sup>nd</sup> respondent. For instance, the findings recorded by the 3<sup>rd</sup> respondent, in his report, submitted under Section 51 of the Act, were misread by the 2<sup>nd</sup> respondent. Secondly, the surcharge order is said to be inconsistent with the show cause notice issued by the 2<sup>nd</sup> respondent. A ground of bias and prejudice was also pointed out by the Tribunal. It was mentioned that the individual who held the office of the 2<sup>nd</sup> respondent, at a later point of time, had also acted upon as special officer during the enquiry under Section 51 of the Act. As a matter of fact, the Tribunal could have set aside the surcharge order and be done with it. With a view to protect the interests of the Society and all the concerned, it has chosen to remand the matter. In a way it has given an opportunity to the petitioner and other concerned to rectify their mistakes.

For the foregoing reasons, the writ petition is dismissed. There

shall be no order as to costs.

**L. NARASIMHA REDDY, J.**

**Dt.21-02-2007.**

*KO*